

UNITED STATES JUDICIAL PANEL
on
MULTIDISTRICT LITIGATION

**IN RE: BIOMET M2A MAGNUM HIP IMPLANT
PRODUCTS LIABILITY LITIGATION**

Rochelle Millman, et al. v. Biomet, Inc., et al.,)	
N.D. Illinois, C.A. No. 1:12-02198)	MDL No. 2391
Mary Ziegler v. Biomet Orthopedics, et al.,)	
D. Montana, C.A. No. 2:12-00079)	

TRANSFER ORDER

Before the Panel: Pursuant to Panel Rule 7.1, plaintiffs in two actions move to vacate our orders that conditionally transferred their respective actions to MDL No. 2391. Responding defendants¹ oppose the motions to vacate.

After considering all argument of counsel, we find these actions involve common questions of fact with the actions previously transferred to MDL No. 2391, and that transfer will serve the convenience of the parties and witnesses and promote the just and efficient conduct of the litigation. Moreover, transfer is warranted for reasons set out in our order directing centralization. In that order, we held that the Northern District of Indiana was an appropriate Section 1407 forum for actions sharing factual questions arising from alleged injuries from Biomet's M2a Magnum and M2a-38 hip implant products. *See In re Biomet M2A Magnum Hip Implant Prods. Liab. Litig.*, 2012 WL 4753360 (J.P.M.L. Oct. 2, 2012). MDL plaintiffs' claims focus primarily upon the metal-on-metal design of the M2a Magnum and its alleged propensity to generate high levels of metal ions, cause metallosis in the surrounding tissue and/or fail early. The actions now before us involve injuries arising from the design, manufacture, marketing and implantation of Biomet M2a Magnum hip implant components, and clearly fall within the MDL's ambit.

Plaintiffs do not dispute that their actions share questions of fact with actions pending in MDL No. 2391. Plaintiffs instead base their arguments against transfer primarily on the pendency of motions to remand their respective actions to state court. Plaintiffs can present their motions for remand to the

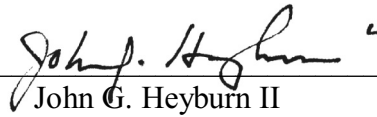
¹ Biomet Orthopedics, LLC and Biomet, Inc. (collectively Biomet); Troy Bergquist; Adam Garcia and A. Garcia; and T.L. Weiss & Assocs., Inc.

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transferee judge.² *See, e.g., In re Ivy*, 901 F.2d 7, 9 (2nd Cir. 1990); *In re Prudential Ins. Co. of Am. Sales Practices Litig.*, 170 F. Supp. 2d 1346, 1347-48 (J.P.M.L. 2001).

IT IS THEREFORE ORDERED that pursuant to 28 U.S.C. § 1407, these actions are transferred to the Northern District of Indiana and, with the consent of that court, assigned to the Honorable Robert L. Miller, Jr., for inclusion in the coordinated or consolidated pretrial proceedings.

PANEL ON MULTIDISTRICT LITIGATION

A handwritten signature in black ink, reading "John G. Heyburn II", is positioned above a horizontal line.

Chairman

Kathryn H. Vratil
Paul J. Barbadoro
Charles R. Breyer

W. Royal Furgeson, Jr.
Marjorie O. Rendell
Lewis A. Kaplan

² Panel Rule 2.1(d) expressly provides that the pendency of a conditional transfer order does not limit the pretrial jurisdiction of the court in which the subject action is pending. Between the date a remand motion is filed and the date that transfer of the action to the MDL is finalized, a court wishing to rule upon the remand motion generally has adequate time in which to do so.